

THE
ORIGINAL POWER
OF THE
COLLECTIVE BODY
OF THE
PEOPLE of ENGLAND,

Examined and Asserted,

By DANIEL DEFOE.

To which are added by the same AUTHOR,

Some Distinguishing CHARACTERS
OF A
PARLIAMENT-MAN.

The THIRD EDITION.

LONDON: Printed and Sold by R. BALDWIN, in
PATER-NOSTER-ROW.

THE HISTORY OF THE

ROYAL SOCIETY OF LONDON

FROM ITS ORIGIN TO THE PRESENT



BY JOHN HENRY DODD

WITH A HISTORY OF THE SOCIETY OF ANTIQVARIARIES

BY JOHN HENRY DODD

THIRD EDITION

LONDON: PRINTED BY R. BARTON, 15, PATERNOSTER-LANE.

TO THE
Right Hon. the LORD MAYOR;
The ALDERMEN,
And COMMONS of the CITY
of LONDON.

GENTLEMEN,

WHEN with a Disinterestedness and Public Spirit, which would have done Honour to the most noble Characters in the most virtuous and public-spirited Times, you lately petitioned the three Branches of the Legislature not to put the BADGE OF SLAVERY on your Fellow Subjects by the Extension of the EXCISE LAWS, every true Lover of Liberty was filled with the greatest Veneration, and the warmest Gratitude towards you. But the glorious Light you then appeared in, was too bright not to raise the Envy and Malevolence of some: They therefore with Industry propagated, that you had acted against the Constitution in petitioning his Majesty; and some, if I am informed aright, who ought to have known the Constitution better, talked in very high Terms. It is a Matter not only of Surprise, but of Concern, that the People in general should be so little acquainted with the Constitution, that they should, as too many did, fall in with this dangerous, unconstitutional, and indeed, absurd Notion. The reprinting therefore of this excellent Piece of the celebrated DANIEL DEFOE, (who seems to have understood as well as any Man the civil Constitution of the Kingdom) wherein the Nature of our Constitution is set in the clearest Light upon self-evident Principles, and the Original Power of the Collective Body of the People, asserted, seemed to be altogether reasonable, and fitting. In this Piece, Gentlemen, is proved, with such Reason that cannot be gainsayed, that your petitioning the King after you had failed in your Petition to the Two other Branches of the Legislature, was truly CONSTITUTIONAL, rational, and judicious.

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The Design of reprinting this Piece is to keep alive the Original Right of the People, that no false Reasonings, nor any artful Insinuations may ever extinguish it. It is therefore with Propriety addressed to that Body of Men which has always stood, like MOSES, in the Gap, against all Encroachments on the Liberties of the People; and to which the Nation hitherto owes its Freedom and Prosperity. Your late Proceedings, Gentlemen, shew that you still preserve that Independency, that spirited Firmness, that just and unbiassed Resolve, which are the true Supports of Liberty. With an entire Veneration of your Conduct, I am,

GENTLEMEN,

Your most obedient humble Servant,

A FELLOW CITIZEN.

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To the KING.*

S I R,

THIS not the least of the Extraordinaries of Your Majesty's Character, That as You are King of Your People, so You are the People's King.

This Title, as it is the most Glorious, so is it the most Indisputable in the World.

God himself appointed, the Prophet proclaimed, but the People's Assent was the finishing the Royal Authority of the first King of Israel.

Your Majesty, among all the Blessings of your Reign, has restored this, as the best of all our Enjoyments, the full Liberty of Original Right in its Actings and Exercise.

Former Reigns have invaded it, and the last thought it totally suppress'd, but as Liberty revived under Your Majesty's just Authority, this was the first Flower she brought forth.

The Author of these Sheets humbly hopes, That what Your Majesty has so gloriously restored, what our Laws and Constitution have declared and settled, and what Truth and Justice openly appears for, he may be allowed to vindicate.

Your Majesty knows too well the Nature of Government, to think it at all the less honourable, or the more precarious, for being devolved from, and centered in the Consent of your People.

The Pretence of Patriarchal Authority, had it really an uninterrupted Succession, can never be supported against the demonstrated Practice of all Nations; but being also divested of the chief Support it might have had, if that Succession could have been proved: The Authority of Governors, Jure Divino, has sunk ignominiously to the Ground, as a preposterous and inconsistent Forgery.

And yet, if Vox Populi be, as 'tis generally allowed, Vox Dei, Your Majesty's Right to these Kingdoms Jure Divino, is more plain than any of Your Predecessors.

How happy are these Nations, after all the Oppressions and Tyranny of Arbitrary Rulers, to obtain a King who reigns by the universal Voice of the People, and has the greatest Share in their Affections that ever any Prince enjoyed, Queen Elizabeth only excepted.

And

* King WILLIAM the Third.

And how vain are the Attempts of a Neighbouring Prince, to nurse up a contemptible Imposture, upon the Pretence of forming a Claim on the Foundation of but a pretended Succession, against the Consent of the general Suffrage of the Nation.

To what Purpose shall all the Proofs of his Legitimacy be, supposing it could be made out, when the universal Voice of the People already expressed in enacted Laws, shall answer, We will not have this Man to reign over us.

May this Affection of Your Subjects continue to the latest Hour of Your Life, and may Your Satisfaction be such as may convince the World, That the chiefest Felicity of a Crown consists in the Affections, as the first Authority of it derives from the Consent of the People.

To the LORDS Spiritual and Temporal, and
the COMMONS of ENGLAND.

My Lords and Gentlemen,

THE Vindication of the Original Right of all Men to the Government of themselves, is so far from a Derogation from, that it is a Confirmation of legal Authority.

Your Lordships, who are of the Nobility, have your Original Right, your Titles and Dignities from the Greatness of your Shares in the Freeholds of the Nation: If Merit has raised any of your Ancestors to distinguishing Honours, or, if the Royal Favour of Princes has dignified Families, it has always been thought fit to bestow, or to enable them to purchase a Portion of the Freehold of England to be annexed to the said Titles, to make such Dignities rational, as well as to support the Succession of Honour.

From hence you are vested with Sovereign Judicature, as being the properest to be trusted with the Distribution of Justice in that Country, of which you were supposed to have, and once had, the principal Property.

From hence you sit in Parliament as a Branch of our Constitution, being Part of the Collective Body, representing no Body but yourselves; and as a Testimony that the Original of all Power centers in the Whole.

The rest of the Freeholders have originally a Right to sit there with you, but being too numerous a Body, they have long since agreed,

agreed, that whenever the King thinks fit to advise with his People, they will chuse a certain few out of their great Body to meet together with your Lordships.

Here, in short, is the Original of Parliaments, and here, if Power at any Time meets with a Cess, if Government and Thrones become vacant, to this Original all Power of Course returns. This is the happy Center in the great Circle of Politick Order.

From hence at the late Revolution, when the King deserted the Administration, and his present Majesty was in Arms in England, Nature directed the People to have Recourse to your Lordships, and to desire your Appearance as the Heads of the great Collective Body; and all the Champions for the great Arguments of Divine Right could not in that Exigence have Recourse to one Precedent, nor to one Rule of Proceeding, but what Nature would have dictated to the meanest Judgment, viz. That the Nation being left without a Governor, the Proprietors should meet to consider of another.

And you, Gentlemen of the House of Commons, who are the Representatives of your Country, you are this great Collective Body in Miniature, you are an Abridgement of the many Volumes of the English Nation.

To you they have trusted jointly with the King and the Lords, the Power of making Laws, raising Taxes, and impeaching Criminals: But how? 'Tis in the Name of all the Commons of England, whose Representatives you are.

All your Power is your's, as you are a full and free Representative. I no where attempt to prove what Powers you have not, possibly the Extent of your legal Authority was never fully understood, nor have you ever thought fit to explain it. But this I may be bold to advance, that whatever Powers you have, or may have, you cannot exercise but in the Name of the Commons of England, and you enjoy them as their Representatives, and for their Use.

All this is not said to lessen your Authority: Nor can it be the Interest of any English Freeholder to lessen the Authority of the Commons assembled in Parliament.

You are the Conservators of our Liberties, the Expeditors of our Laws, the Levyers of our Taxes, and the Redressers of our Grievances, the King's best Counsellors, and the People's last Refuge.

But if you are dissolved, for you are not immortal; or if you are deceived, for you are not infallible; 'twas never yet supposed, till very lately, that all Power dies with you.

You

You may die, but the People remain; you may be dissolved, and all immediate Right may cease; Power may have its Intervals, and Crowns their Interregnum; but Original Power endures to the same Eternity the World endures to: And while there is People, there may be a legal Authority delegated, tho' all Succession of substituted Power were at an End.

Nor have I advanced any new Doctrine, nothing but what is as ancient as Nature, and born into the World with our Reason: And I think it would be a Sin against the Parliament of England, to suggest that they would be offended either with the Doctrine or with the Author, since 'tis what their own Authority is built upon, and what the Laws of England have given their Assent unto by confirming the Acts of the last Collective Body of the People, from whence the present Settlement of the Nation does derive.

Wherefore I make no Apology for Protection or Favour as to the Fact; as to Language I am ready to ask Pardon if I offend, declaring my Intention is neither for nor against either Person or Party. As there is but One Interest in the Nation, I wish there was but One Party, and that Party would adhere to unbiassed Justice, and pursue the Honour and Interest of the Protestant Religion, and the English Liberty.

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THE
ORIGINAL RIGHT
OF THE
PEOPLE of ENGLAND,

Examined and Asserted.

I Have observed, when Interest obliges any Person or Party to defend the Cause they have espoused, they please themselves with fancying they conceal their private Designs, by covering their Discourses with gay Titles.

Thus some Gentlemen place fine specious Titles on their Books, as *Jura Populi Anglicani*, *A Vindication of the Rights of the Commons of England*, and a *Vindication of the Rights of the Lords*, and the like; and with large and high Encomiums upon the Excellency of our Constitution, treat the Levity of the People's Judgments with fine Notions; whereas the true End and Design is defending the Interest and Party they have espoused.

The Defence of the Rights of the Representative Body of the People, understood by the Name of the Commons of England in Parliament, is a great Point; and so plain are their Rights, that 'tis no extraordinary Task to defend them: But for any Man to advance, that they are so august an Assembly, that no Objection ought to be made to their Action, nor no Reflection upon their Conduct, tho' the Fact be true; and that it is not to be examined whether the

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Thing

Thing said be true, but what Authority the Person speaking has to say it, *is a Doctrine wholly new*, and seems to be a Badge of more Slavery to our own Representative than ever the People of *England* owes them, or than ever they themselves expected.

This therefore, together with some Invasions of the People's Rights made public by several Modern Authors, are the Reasons why I have adventur'd, *being wholly disinterested and unconcerned either for Persons or Parties*, to make a short Essay at declaring the Rights of the People of *England*, not Representatively but Collectively considered.

And with due Deference to the Representative Body of the Nation, I hope I may say, *it can be no Diminution of their Rights*, to assert the Rights of that Body from whom they derive the Powers and Privileges of their House, and which are the very Foundation of their Being. For if the original Right of the People be overthrown, the Power of the Representative, which is subsequent and subordinate, must die of itself.

And because I have to do rather with Reason and the Nature of the Thing, than with Laws and Precedents, I shall make but very little Use of Authors, and Quotations of Statutes, since Fundamentals and Principles are superior to Laws or Examples.

To come directly to what I design in the following Papers, 'tis necessary to lay down some Maxims, other than what a late * Author has furnished us with.

1. *Salus Populi suprema Lex*, all Government, and consequently our whole Constitution, was originally designed, and is maintained for the Support of the People's Property, who are the Governed.

2. That all the Members of Government, whether King, Lords or Commons, if they invert the great End of their Institution, the public Good, cease to be in the same public Capacity.

And Power retreats to its Original.

3. That no Collective or Representative Body of Men whatsoever, in Matters of Politics any more than Religion, *are or ever have been infallible.*

Sir H. M. Vindication of the House of Commons.

4. That

4. That Reason is the Test and Touch-stone of Laws, and that all Law or Power that is contradictory to Reason, is *ipso Facto* void in itself, and ought not to be obeyed.

These four Generals run through the whole following Discourse.

Some other Maxims less general are the Consequence of these; as,

First, That such Laws as are agreeable to Reason and Justice being once made, are binding both to King, Lords and Commons, either separately, or conjunctively, till they are actually repealed in due Form.

That if either of the three Powers do dispense with, suspend, or otherwise break any of the known Laws so made, they injure the Constitution; and the Power so acting ought to be restrained by the other Powers not concurring, according to what is lately allowed, *That every Branch of Power is designed as a Check upon each other.* Sir H. M. Vindication of the Commons.

But if all the three Powers should join in such an irregular Action, the Constitution suffers a Convulsion, dies, and is dissolved of Course.

Nor does it suffice to say, That King, Lords and Commons can do no Wrong, since *the mutual Consent of Parties*, on which that foolish Maxim is grounded, does not extend to every Action King, Lords and Commons are capable of doing.

There are Laws which respect the common Rights of the People, as they are the Parties to be Governed, and with Respect to these the King can do no Wrong, but all is laid upon his Ministers—who are accountable.

And there are Laws which particularly respect the Constitution, the King, Lords and Commons, as they are the Parties governing: In this Regard each Branch may wrong and oppress the other, or altogether, may do Wrong to the People they are made to govern.

The Commons may extend their Power to an exorbitant Degree, in imprisoning the Subjects, dispensing with the *Habeas Corpus* Act, giving unlimited Power to their Sergeant to oppress the People in his Custody, withholding Writs of Election from Boroughs and Towns, and several other Ways; which, if they are not checked either by the

King, or the Lords, *they are altogether Parties to the Wrong,* and the Subject is apparently injured.

The Lords may err in Judicature, and deny Justice to the Commons, or delay it upon Punctilio's and studied Occasions, and if neither the King nor the Commons take Care to prevent it, Delinquents are excused and Criminals encouraged, *and all are guilty of the Breach of common Justice.*

That to prevent this, it is absolutely necessary that in Matters of Dispute the single Power should be governed by the joint, and that nothing should so be insisted upon as to break the Correspondence.

That the three should be directed by the Law; and where that is silent, by Reason.

That every Person concerned in the Law is in his Measure a Judge of the Reason, and therefore in his proper Place ought *to be allowed to give his Reason in Case of Dissent.*

That every single Power has an absolute Negative upon the Acts of the other; and if the People, who are without Doors find Reason to object, *they may do it by Petition.*

But because under Pretence of Petitioning, seditious and turbulent People may foment Disturbances, Tumults, and Disorders: The Subjects Right of petitioning being yet recognized and preserved, the Circumstances of such Petitions are regulated by Laws, as to the Number and Qualities of the Persons petitioning.

But the Laws have no where prescribed the Petitioners to any Form of Words, and therefore no Pretence of Indecency of Expression can be so criminal as to be destructive of the Constitution; because, tho' it may deserve the Resentment of the Petitioned, yet it is not an illegal Act, nor a Breach of any Law.

And yet the Representative Body of the People ought not to be bantered or affronted neither, at the Will and Pleasure of any private Person without Doors, who finds Cause to petition them.

But if any Expression be offensive to the House, it seems reasonable that the Persons who are concerned therein should be required to explain themselves; and if upon such Explanation the House find no Satisfaction as to the particular Affront, they are at Liberty to proceed as the Law directs; but no otherwise.

And

And to me, the Silence of the Law in that Case seems to imply, that rejecting the Petition is a Contempt due to any Indecency of that Nature, and as much Resentment as the Nature of the Thing requires: But as to breaking in upon personal Liberty, which is a Thing the Law is so tender of, and has made so strong a Fence about, I dare not affirm 'tis a justifiable Procedure; no, not in the House of Commons.

It is alledged, that it has been practised by Parliaments; which is to me far from an Argument to prove the Legality of it.

I think it may pass for a Maxim, that a Man cannot be legally punished for a Crime which there is no Law to prosecute. Now since there is no Law to prosecute a Man for Indecency of Expression in a Petition to the House of Commons, it remains a Doubt with me how they can be legally punished.

Precedents are of Use to the Houses of Parliament where the Laws are silent in Things relating to themselves, and are doubtless a sufficient Authority to act from. But whether any Precedent, Usage or Custom, of any Body of Men whatever, can make a Thing lawful which the Laws have expressly forbid, remains a Doubt with me.

It were to be wished some of our Parliaments would think fit, at one Time or another, to clear up the Point of the Authority of the House of Commons, in Case of imprisoning such as are not of their House, that having the Matter stated by those who are the only Expositors of our Laws, we might be troubled with no more *Legion Libels*, to tell them what is, or is not, legal in their Proceedings.

The Good of the People governed is the End of all Government, and the Reason and Original of Governors; and upon this Foundation it is, that it has been the Practice of all Nations, and of this in particular, that if the Mal-Administration of Governors have extended to Tyranny and Oppression, to Destruction of Right and Justice, overthrowing the Constitution, and abusing the People, the People have thought it lawful to reassume the Right of Government in their own Hands, and to reduce their Governors to Reason.

The present happy restoring of our Liberty and Constitution is owing to this Fundamental Maxim.

That

*That Kings, when they descend to Tyranny,
Dissolve the Bond, and leave the Subject free.*

If the People are justifiable in this Procedure against the King, I hope I shall not be censured if I say, *That if any one should ask me, whether they had not the same Right in the same Cases, against any of the three Heads of the Constitution, I dare not answer in the Negative.*

I may be allowed to suppose any Thing which is possible; and I will therefore venture to suppose, That in the late King's Reign the House of Commons, then sitting, had voted the Restoration of Popery in *England*, in Compliance with the King's Inclination.

I doubt not but it had been lawful for the *Grand Juries, Justices of the Peace, and Freeholders of any County*, or of every County, to have petitioned the House of Commons not to proceed in giving up their Religion and Laws.

And in Case of Refusal there, they might petition the House of Lords not to have passed such a Bill.

And in Case of Refusal there they might petition the King, and put him in Mind of his Coronation Engagement.

And in Case of Refusal to that Petition, they might petition the King again to dissolve the Parliament, or otherwise to protect their Liberties and Religion.

And if all these peaceable Applications failed, I doubt not but they might associate for their mutual Defence against any Invasion of their Liberties and Religion, and apply themselves to any neighbouring Power or Potentate for Assistance and Protection.

If this be not true, I can give but a slender Account of our late Revolution; which, nevertheless, I think to be founded upon the exact Principles of Reason and Justice.

Nor will the Pretence of Indecency of Expression be any Argument to bar the Subject of his Right of petitioning, or justify the ill Treatment of such Petitioners.

*" When there is Occasion to debate concerning these Superior
" Powers of King, Lords and Commons, we must not argue like
" Lawyers in Westminster-Hall, from the narrow Foundation
" of*

" of private Causes of Meum and Tuum; but like Statesmen
 " and Senators, from the large and noble Foundation of Govern-
 " ment, and the general Good of the King and People."

Nor would it be an Argument in the supposed Case I am upon, for any Body to say, That the Occasion must concern that Part of the Country from whence such Petition is brought: For the introducing of Popery would certainly concern every County of *England*.

And suppose again, the People thought themselves in Danger of an Invasion from *France*, and thereupon the Counties of *Kent* and *Sussex* should have petitioned the House to take them into Consideration; who, in such Case, were like to be the Seat of the War, and first exposed to the Enemy; Would any Body say, the Occasion did not arise in the County from whence such Petition did proceed?

In this *Universal Right of the People* consists our general Safety: For notwithstanding all the Beauty of our Constitution, and the exact Symmetry of its Parts, about which some have been so very elegant, *this noble well-contrived System has been over-whelmed*; the Government has been inverted, the People's Liberties have been trampled on, and Parliaments have been rendered useless and insignificant: And *what has restored us?* The last Resort has been to the People; *Vox Dei* has been found there, not in the Representatives, but in their Original the *Represented*.

And what has been the Engine that has led the Nation to it? the Reason and Nature of the Thing. Reason governs Men when they are Masters of their Senses, as naturally as Fire flies upwards, or Water descends.

For what is it that King, Lords, and Commons assemble? It is to reason together concerning the weighty Matters of the State, and to act and do for the Good of the People, what shall be agreeable to Reason and Justice.

I grant 'tis reasonable that every Branch should be vested with due Powers, and those Powers be equally distributed.

But if they must be vested with Power, some Body must vest them with it: If these Powers must be distributed, some Body must distribute them. So that

There must be some Power prior to the Power of King, Lords, and Commons, from which, as the Streams from
 the

the Fountain, the Power of King, Lords, and Commons is derived.

And what are all the different Terms which Statesmen turn so often into fine Words to serve their Ends; as *Reason of State*, *Public Good*, the *Common-wealth*, the *English Constitution*, the *Government*, the *Laws of England*, the *Liberties of England*, the *Fleets*, the *Armies*, the *Militia of England*, the *Trade*, the *Manufactures of England*? All are but several Terms drawn from and reducible to the great Term, the *People of England*. That's the General that contains all the Particulars, and which *had all Power before any of the Particulars had a Being*. And from this Consideration it is, that some who yet would be Opposers of this Doctrine say, *when it serves their Turn*, that all the great Offices which have the Title of *England* annexed to them, ought to be nominated and approved by the People of *England*, as the High Chancellor of *England*, High Admiral of *England*, and the like.

That Power which is Original, is Superior; *God is the Fountain of all Power, and therefore is the Supreme*: And if we could suppose a Prior and Original of the Divine Power, *that Original would be God*, and be Superior; for all subsequent Power must be subject and inferior to the precedent.

The Power vested in the three Heads of our Constitution, is vested in them by the People of *England*, who were a People before there was such a Thing as a Constitution.

And the Nature of the Thing is the Reason of the Thing: It was vested in them by the People, because the People were the only Original of their Power, being the only Power prior to the Constitution.

For the public Good of the People, a Constitution and Government was originally formed; from the mutual Consent of these People the Powers and Authorities of this Constitution are derived: And for the Preservation of this Constitution, and enabling it to answer the Ends of its Institution in the best Manner possible, those Powers were divided.

The second Maxim is a rational natural Consequence of the former, That at the *final, Casual, or any other Determination* of this Constitution, the Powers are dissolved, and all

all Authority must derive *de novo* from the first Fountain, Original, and Cause of all Constitutions, *the Governed.*

Now it cannot be supposed this original Fountain should give up all its Waters, but that it reserves a Power of supplying the Stream: Nor hath the Stream a Power to turn back upon the Fountain, and invert its own Original: All such Motions are excentric and unnatural.

There must always remain a Supreme Power in the Original to supply, in Case of the Dissolution of delegated Power.

The People of *England* have delegated all the Executive Power in the King, the Legislative in the King, Lords, and Commons, the Sovereign Judicature in the Lords, the Remainder is reserved in themselves, and not committed, no not to their Representatives: All Powers delegated are to one great End and Purpose, and no other, and that is *the Public Good.* If either, or all the Branches to whom this Power is delegated invert the Design, the End of their Power, the Right they have to that Power ceases; and they become Tyrants and Usurpers of a Power they have no Right to.

The Instance has been visible as to Kings in our Days; and History is full of Precedents in all Ages, and in all Nations; particularly in *Spain*, in *Portugal*, in *Sweden*, in *France*, and in *Poland.*

But in *England*, the late Revolution is a particular Instance of the Exercise of this Power.

King *James*, on the Approach of a Foreign Army, and the general Recourse of the People to Arms, fled out of the Kingdom. What must the People of *England* do? They had no Reason to run after him; there was no Body to call a Parliament, so the Constitution was entirely dissolved.

The Original of Power, *the People*, assembled in Convention to consider of delegating New Powers for their future Government, and accordingly made a New Settlement of the Crown, a New Declaration of Right, and a New Representative of the People; and what if I should say, *they ought to have given a New Sanction to all precedent Laws.*

It remains to argue from hence, But what Course must the People of *England* take, if their Representatives exer-

case the Power entrusted with them to the Ruin of the Constitution?

It has been advanced, That every Man must submit, and not presume to argue against it upon any Supposition of Mismanagement.

I can see no Reason given to confirm such a Position; for unless we will place the Original of Power in the Persons representing, not in the Persons represented, it cannot be made out that there ought to be no Complaint upon the Score of their Mismanagement.

It is not the Design of this Discourse to lessen the Authority of Parliament: But all Power must centre some where, If it is in the three Branches of the Constitution, it is there inherently and originally; or it is there by Deputation. If it be there by Deputation, then there must be a Power deputing, and that must be both *prior*, and consequently superior to the Deputed; *as before*.

If we will come off of this, we must fly to the old weak Refuge of a Power *Jure Divino*, a Doctrine which the most famous Pretenders to have lived to be ashamed of, and whose Foundation is so weak, that it is not worth while to expose it.

I should therefore have been very glad, that for the perfecting the Defence of the *English* Constitution, the Gentlemen who have begun so well; would have gone forward to recognize the Power of the People of *England*, and their undoubted Right to judge of the Infractions made in their Constitution, by either Parties abusing the particular Powers vested in them; and inverting them, by turning them against the People they are designed to defend.

That they would have stated fairly what the People of *England* are to do, if their Representatives shall hereafter betray the Liberties or Religion of the People they are intrusted with the Defence of.

What by the Laws of Nature and Reason is to be expected, and what by the Laws of our Constitution are allowed.

To say, It cannot be supposed the House of Commons can ever betray their Trust, is a Compliment, no Man is bound to make them, *Humanum est errare*. We have seen Parliaments err, and do what succeeding Parliaments have thought fit to undo. *And as that which has been may be, so that may be which never has been before.*

We have seen Parliaments comply with Kings to the Ruin of the Nation; and we have seen Parliaments quarrel with Kings, to the overturning of the Constitution, dissolving the House of Lords, and suppressing the Monarchy.

We have seen Parliaments concur so with the Fate and Fortunes of Princes, as to comply backward and forward, in deposing and reenthroning alternately two Kings as often as Victory put Power into their Hands, I mean *Henry* the Sixth, and *Edward* the Fourth, who were Kings and Prisoners five or six Times, and always the Parliament complied with the Conquerors.

We have seen that a Parliament of *England* confirmed the Usurpation of *Richard* the Third, the greatest Tyrant and most bloody Man that ever *England* brought forth.

We have seen that a Parliament confirmed *Henry* the Seventh, who really had no Right at all by Succession, and rescinded all the precedent Parliament had done.

Afterwards, in Matters of Religion, King *Henry* the Eighth made a *Popish Parliament* pull down the Supremacy of *Rome*, and set up the King's; and afterwards suppress all the religious Houses in the Nation. His Son pulled up Popery by the Roots, and planted the Reformation, *still the Parliament complied*. Queen *Mary* re-established Popery, and unravelled both the Reformation of King *Edward*, and all Acts of Church and State relating to her Mother's Divorce, *and still the Parliament consented*. One Parliament voted Queen *Mary* legitimate, and Queen *Elizabeth* a Bastard: Another Parliament legitimated Queen *Elizabeth*, and repudiated Queen *Mary*. Queen *Elizabeth* undid all her Sister had done, and suppressed all the Proceedings of Popery; and *all was by Authority of Parliament*.

So that this Parliamentary Branch of Power is no more infallible than the Kingly.

If then upon the Subversion of the Laws, and Interruption of common Justice, the Centre of Power is in the People, *a Fortiori*. The People are also concerned in every Degree of such a Subversion.

And it is the most reasonable Thing in the World, that those who upon a total Subversion are the Sufferers, and have a Right to the Re-establishment, should have a Right to take Cognisance of any Degree of Invasion made up-

on their Right, and which tends to that general Subversion.

It would be Nonsense to suppose, that which has all the greater Powers should not have the less.

Can the People's Good be the main and only End of Government, and the People's Power be the last Resort when Government is overwhelmed by the Errors of Governors? and have these People no Right, not so much as to be sensible of the Ruin of their Liberties, till it is absolutely completed? 'Twould be ridiculous.

The Truth is in right Reasoning, the first Invasion made upon Justice, either by the tacit or actual Assent of the three Heads of our Constitution, is an actual Dissolution of the Constitution; and, for ought I can see, the People have a Right to dispossess the Incumbent, and commit the Trust of Government, *de novo*, upon that first Act.

But I chuse rather to put the Argument upon total Subversions of Right, Order, and Defence, and I am sure no Body will dispute it with me there.

And here, if I have any Foresight, lies an absolute Security for us against that Bug-bear, which so many pretend to be frighted at, *a Commonwealth*.

The *Genius* of this Nation has always appeared to tend to a Monarchy, a legal limited Monarchy, and having had in the late Revolution a full and uninterrupted Liberty, to cast themselves into what Form of Government they pleased: There was not discovered the least Inclination in any Party towards a Commonwealth, tho' the Treatment they met with from their two last Kings, had all in it that could be, to put them out of Love with Monarchy.

A Commonwealth can never be introduced but by such Invasions of Right, as must make our constituted Government impracticable: The Reason is, because Men never willingly change for the worst; and the People of *England* enjoy more Freedom in our Regal, than any People in the World can do in a Popular Government.

The People of *England* can never chuse a Commonwealth Government, till they come to desire less Liberty than they now enjoy; *that is*, till they come to be blind to their own Interest. 'Tis true, Example is no Argument; but I might freely appeal to the Friends of the last Republic in *England* to answer this Question.

Whether

Whether the People of *England*, during the short Government of Parliament here, which was erroneously called a Commonwealth, did, or whether they can under any Commonwealth Government, founded never so wisely, enjoy greater Privileges and Advantages than under the present Constitution its full and free Exercise, uninterrupted by the Excesses of Kings, evil Counsellors, Parties and Passions?

If any shall pretend that the late Parliament is aimed at in this, I hope I may have as much Liberty to suppose they are mistaken; *for the Days of judging by Inuendo are at an End.*

If any Thing seems to lie that Way, the Error must be their's who have so mean Thoughts of them, as to think the Coat will fit them; *if it does they are welcome to wear it.* For my Part, I declare myself to intend only the bringing Things to such a right Understanding, as may preserve the Ballance of Power; and I hope I cannot offend any Free Representative of the People of *England* in saying, that *what Power they have they receive from the People they represent, and, That some Powers do still remain with the People, which they never either divested themselves of, or committed to them.*

Nor can I be sensible of offending, if I say, that *'tis possible for even a House of Commons to be in the Wrong.* 'Tis possible for a House of Commons to be misled by Factions and Parties. 'Tis possible for them to be bribed by Pensions and Places, and by either of these Extreams to betray their Trust, and abuse the People who entrust them: And if the People should have no Redress in such a Case, then would the Nation be in the Hazard of being ruined by their own Representatives. And 'tis a Wonder to find it asserted in a certain Treatise, *That it is not to be supposed that ever the House of Commons can injure the People who intrust them.* There can be no better Way to demonstrate the Possibility of a Thing, than by proving that it has been already.

And we need go no farther back than to the Reign of King *Charles* the Second, in which we have seen Lists of 180 Members who received private Pensions from the Court; and if any Body shall ask whether that Parliament preserved the Ballance of Power, in the three Branches of our Constitution, in the due Distribution some have mentioned, *I am not afraid to answer in the Negative.*

And

And why, even to this Day, are Gentlemen so fond of spending their Estates to sit in that House, that ten thousand Pounds have been spent at a Time to be chosen, and now that Way of procuring Elections is at an End, *private Briberies*, and clandestine Contrivances are made Use of to get into the House. *No Man would give a Groat to sit where he cannot get a Groat honestly for sitting, unless there were either Parties to gratify, Profits to be made, or Interest to support.*

If then these Things are possible, it seems to me not so improper for the People, who are the Original and End of the Constitution, and have the main Concern in it, to be very solicitous that the due Ballance of Power be preserved; and decently, and, according to Law, always to shew their Dislike and Resentment at any public Encroachment, which either Branch of the Constitution shall make on each other, or on the whole, be it by their own Representatives or any where else.

It cannot be that the *People of England*, who have so much Concern in the good Agreement of their Governors, can see the Two Houses of Parliament at any Time clash with one another, or with the King, or the King with them; or encroach upon the Rights and Liberties of the Subjects, and be unconcerned, and not express their Fears.

Reason and Justice allows, that when all delegated Powers fail or expire, when Governors devour the People they should protect; and when Parliaments, *if ever that unhappy Time shall come again*, should be either destroyed, or, which is as bad, be corrupted, and betray the People they represent, the People themselves, *who are the Original of all delegated Power*, have an undoubted Right to defend their Lives, Liberties, Properties, Religion, and Laws, against all Manner of Invasion or Treachery, be it Foreign or Domestick; the Constitution is dissolved, and the Laws of Nature and Reason act of Course according to the following System of Government.

The Government's ungirt when Justice dies,

And Constitutions are non Entities:

The Nation's all a Mob; there's no such Thing

As Lords, or Commons, Parliament, or King.

A great

A great promiscuous Croud the Hydra lies,
 Till Laws revive, and mutual Contracts rise.
 A Chaos free to chuse for their own Share,
 What Case of Government they please to wear.
 If to a King they do the Reins commit,
 All Men are bound in Conscience to submit.
 But then that King must, by his Oath, assent
 To Postulata's of the Government :
 Which if he breaks, he cuts off the Intail,
 And Power retreats to its Original.

It may be objected; But who are these People to whom Power must thus retreat? And who have the Original Right in their Hands? It must be the whole People. If there be one Negative, every one having an equal Right, the real Claim of Power is imperfect: And since there can be no general Collective Meeting of the whole Community, there can be no Execution of their Power; and therefore this does not justify a few of that Body in the Name of the rest, to execute any Part of that Power.

This may be answered; Tho' upon a Dissolution of Government all the People collectively cannot be enquired of as to what they will have done, yet one Negative ought not to interrupt the whole.

I will suppose a general Dissolution of Government in any Country, such as was seen in this Nation at the last Revolution.

The People assembled in an universal Mob to take the Right of Government upon themselves, are not to be supposed to give their personal Suffrages to every Article; but they may agree to a Convention of such Persons as they think fit to entrust; to constitute *de novo*; and may delegate their Power; or Part of it, to such a Convention; and in such Case a general Concurrence is to be supposed, unless there be a public Dissent.

Now suppose the general collective Body of the People should not unanimously agree, it is owned the Power could not be universally delegated; and there a Division would follow; but in such Case, those who dissented from such an Agreement must declare their Dissent, and agree to any other Form of Government for themselves, and so divide from the other Body, and if they do not divide, they, in Effect, do not dissent.

But

But then this Division must be before any Members are delegated by them to convene.

For Example :

Suppose the Freeholders in *Cornwall*, in such a Case, should say, We do not approve of your deputing Men to meet and consult of a new Government and Constitution, we are resolved to be governed by *such a Man* of our own Country.

This Resolution being against no Law, and that Country having sent no Members to represent them, and to join with the rest of the Body, they cannot be legally disturbed or punished, or forced to unite with the rest of the Nation.

Such a Division might be looked upon as a Misfortune to the general Body, and unkind in the Country, or Part dividing from the rest, but in the Nature of the Thing it could not be unjust.

Because any Body of Men are at Liberty, upon the Dissolution of former Contracts, to be governed by such Laws and Persons, and in such Manner as they shall think fit.

Yet is there no Fear of such a Division in a Country so depending on its several Parts as this is, because the rest would render them so uneasy, that Interest would compel them to comply.

Note, I do not place this Right upon the Inhabitants, but upon the *Freeholders* : The *Freeholders* are the proper Owners of the Country : It is their own, and the other Inhabitants are but Sojourners, like Lodgers in a House, and ought to be subject to such Laws as the Freeholders impose upon them, or else they must remove; because the Freeholders having a Right to the Land, the other have no Right to live there but upon Sufferance.

In former Days the Freehold gave a Right of Government to the Freeholder, and Vassalage and Villinage was derived from this Right, that every Man who will live in my Land shall be my Servant; if he wont, let him go about his Business, and live somewhere else.

And 'tis the same still in right Reasoning.

And I make no Question but Property of Land is the best Title to Government in the World; and if the King was universal Landlord, he ought to be universal Governor of
o Right,

Right, and the People so living on his Lands ought to obey him, or go off of his Premisses.

And if any single Man in *England* should, at any Time, come to be Landlord of the whole Freehold of *England*, he could indeed have no Right to dispossess the King, till the present legal Settlement of the Crown failed, because it was settled by those that had then a Right to settle it.

But he would immediately be the full Representative of all the Counties in *England*, and might elect himself Knight of the Shire for every County, and the Sheriff of every County must return him accordingly.

He would have all the Baronies and Titles of Honour which are entailed upon Estates devolved upon him, and upon any Expiration of the Settlement would be King by natural Right.

And he would be King upon larger Terms, than ever any Man was legally King of *England*; for he would be King by inherent Right of Property.

When therefore I am speaking of the Right of the People, I would be understood of the Freeholders, for all the other Inhabitants live upon Sufferance, and either are the Freeholders Servants, or having Money to pay Rent live upon Conditions, and have no Title to their living in *England*, other than as Servants, but what they must pay for.

Upon this Foot it is that, to this Day, our Law suffers not a Foreigner to purchase any of the Freeholds of *England*: For if a Foreigner might purchase, your Neighbours (having Money to spare) might come and buy you out of your own Country, and take Possession by a legal and indisputable Right.

This Original Right was the first Foundation of the several Tenures of Land in *England*; some held of the King, some of the Lord, some by Knight Service, Soccage, and the like, and some were called Freeholds. The Lords of Manors had their Homages, and their Services from their Tenants, as an Acknowledgment that the Right of the Land gave a certain Right of Government to the Possessor over all the Tenants and Inhabitants.

But he that possessed the least Freehold, was as much Lord of himself, and of that Freehold, as the greatest Nobleman in the Nation; he owed no Homage or Service,

no, not to the King, other than as limited by Laws of his own making, *that is*, as he was represented in Parliament.

And as a Thing which will put this Argument out of all Question: The Right to Lands, Manors, and Lordships, was not originally a Right granted by Patents from Kings, or Acts of Parliament, but a natural Right of Possession handed down by Custom, and ancient Usage, as the Inheritance from the still more ancient Possessors and Prescription, or Usage Time out of Mind is, to this Day, allowed to be a sufficient Title in several Cases, where Conveyances, Deeds, Charters, and Writings of Estates are silent, especially as to Buttings and Boundings of Land, Highways, Foot-Paths, Water-Courses, Bridges, and the like.

This Right, as all Right is originally founded upon Reason: For it would be highly unreasonable, that those People who have no Share of the House should live in it whether he that built it will or no. No Person has any Right to live in *England*, but they to whom *England* belongs; the Freeholders of *England* have it in Possession; *England* is their own, and no Body has any Thing to do here but themselves.

If they permit other People to live here, well and good, but no Man but a Freeholder lives here upon any Terms but *permissu Superiorum*, and he pays Rent for his Licence to live here.

Thus the Liberties and Privileges of Towns and Corporations, are founded upon Acts of Parliament to confirm Charters or Grants from the Crown, by which the Freeholders give their Consent that such and such Bodies of Men living in such Towns, shall enjoy certain Privileges in Consideration of their being so considerably serviceable to the Nation, by paying Taxes, maintaining the Poor, by Manufactures, Trade, and the like, notwithstanding they are not possessed of any Part of the Freehold.

And 'tis observable, the King cannot give this Privilege, so as to enable any of these Corporations to send Representatives to Parliament. None, but the Freeholders of *England* (and such Towns in Conjunction) to whom the Freeholders have already granted such Privilege, can give a Qualification of such a Nature, as is a receiving them into an equal State of Privilege with a Freeholder.

Every

Every Man's Land is his own Property; and 'tis a Trespafs in the Law for another Man to come upon his Ground without his Consent. If the Freeholders should all agree That such a Man shall not come upon their Land; That they will not lett him a House for his Money; That whose Land soever he sets his Foot on, the Owner shall indist him for a Trespafs, as by Law he may, the Man must fly the Nation of Course.

Thus the Freeholders having a Right to the Possession of *England*, the Reason must be good that they must have the same Right to the Government of themselves, that they have to the Government of the rest of the Inhabitants; and *that there can be no Legal Power in England, but what has its Original in the Possessors; for Property is the Foundation of Power.*

I am not undertaking to find Fault with our Constitution, tho' I do not grant neither, that it is capable of no Amendment; but I would endeavour to make Way, by retreating to Originals, for every Member to perform its proper Function, in order to put the general Body into its regular Motion.

For as in the natural Body, if any Member, either by Contraction of the Organ, Dislocation, or other Accident, fails in the Performance of its proper Duty, the Locomotive Faculty is either interrupted, and the Body distorted, or at least the Regularity of Natural Motion is invaded; So in the Body Politick, if one Branch of the general Union errs, and that Error is not corrected, the whole Constitution suffers a Shock, and there is an Infraction of the general Order.

The Excellency of our Constitution consists of the *Symmetry of Parts, and the Ballance of Power*; and if this Ballance be broken, one Part grows too great for the other, and the whole is put into Confusion.

To give some Instances of this, it will be needful to enter a little into History, and we need not go far to inform ourselves, that there has been a Time when the Weakness of our Constitution has appeared.

Our Constitution, when all the fine Things in the World have been said of it, is not impregnable; when Power has been thrown wholly into one Scale, the other has always been trampled under Foot, and overthrown by it.

The Regal Power under King *Charles* the First, overballanc'd the Lords & Commons, to the invading the Right of levying Taxes vested wholly in the Parliament, and to the discontinuing Parliaments for 14 Years, and the many Convulsions the Constitution felt in that Time, is too melancholy a Subject to reflect upon.

The House of Commons in the next Settlement overballanc'd the Lords, and Power being added to one Side, toss'd the Upper House quite out of the Scale, absolutely annihilated the very Being of the Peers *as a House*, and voted them out of the Constitution.

By the Restoration the Constitution returned to its Original, and the Ballance was poised again: What Attempts have since been made to overthrow it, are needless to be insisted upon, but the Nature of the Thing leads me to make one Remark, That if the King can do no Wrong, nor is not punishable, or blameable, by our Constitution, but the Ministry, as a late Author has very clearly set down, then we have acted strangely in the late Revolution; in which the King, who must be innocent, only suffered; and the Ministry, who must be guilty, not only were excused, but entrusted and employed.

Not that I am of some People's Opinion neither, who think the late King had hard Measure in being depos'd, when he was really not accountable. For I presume I may affirm, That the deposing King *James* was founded upon his deserting the Nation, not his Male-Administration; for had he continued in *England*, you might possibly have subdued him, and took him Prisoner, but there had been no Room for transposing the Crown while he had been alive.

And 'tis allowed by all, that those Persons, who advised him to quit the Kingdom by flying out of it, either wilfully betrayed him, or very ignorantly gave him the only Council which could compleat his Ruin.

How then it comes to pass that those evil Ministers have arrived to Impunity for what was past, and again to be trusted both in the Court, and in the Parliament, with the People's Liberties, *is a Mystery past our Reaches*.

If I had no Name myself, I would set down their's; or if I had a Press in the Clouds to print their Practices, the World should not be ignorant; but since 'tis not so, I shall only

only say as our Saviour said of some Body else, *By their Works ye shall know them.*

Still I allow, that of this Power so derived from Property, the *House of Commons* are the Abridgment; they are *the Freeholders of England in Miniature*; to them all needful Powers and Privileges are committed, to make them capable of acting for the People they represent; and, *Extremities excepted, they are our last Resort*: But if they employ those Privileges and Powers against the People, the Reason of those Powers is destroyed, the End is inverted, and the Power ceases of Course.

From hence 'tis reasonable to give them Instructions; and tho' they are not conditionally chosen as to their Instructions, yet they ought in Honour to think themselves under equal Obligation to stand by those Instructions.

Instructions to Members are like the Power given to an Arbitrator, in which, tho' he is left fully and freely to act, yet 'tis in Confidence of his Honour that he will think himself bound, by the Directions he receives from the Person for whom he acts.

If an Arbitrator inverts the Design of his Principle, he destroys the End of his Election, and is sure never to be entrusted again.

The *House of Commons* are our Sanctuary against the Oppression of Princes, the Nation's Treasurers, and the Defenders of their Liberties; but all these Titles signify, that at the same Time they are the Nation's Servants.

The *House of Commons* also are mortal, as a House; a King may dissolve them, they may die, and be extinct, but the Power of the People has a Kind of Eternity with Respect to Politic Duration: Parliaments may cease, but the People remain; for them they were originally made, by them they are continued and renewed, from them they receive their Power, and to them in Reason they ought to be accountable.



Some distinguishing Characters of a Parliament Man.

First. **M**EN of Sense; the House of Commons is not a Place for Fools; the great Affairs of the State, the Welfare of the Kingdom, the public Safety, the Religion, Liberties, and Trade, the Wealth and Honour of the Nation, are not Things to be debated by Green Heads; the Saying we have, That the House of Commons is a School for Statesmen, is an Error, in my Opinion; they should be all well taught, and thoroughly learned in Matters of the highest Moment before they come there.

There has always been a Sort of Gentlemen in the House who used to be called the Dead Weight, who pass their Votes in the House as the poor ignorant Freeholders in the Country do, just as the Landlord, or the Justice, or the Parson directs; so these Gentlemen understanding very little of the Matter, give their Votes just as Sir such a one does, let it be how it will, or follow such a Party, without judging of the Matter.

Of all Employments a Fool is the most unfit for a Parliament Man, for there is no Manner of Business for him; he is capable of saying neither *Ay*, nor *No*, but as he is lead.

I desire to be understood here what I mean by a Fool, not a Natural, an Idiot, a *Ben* in the *Minorities*, a Born Fool, no, nor a silly, stupid, downright Blockheaded Fool: But Men are Fools, or Wise Men, comparatively considered with Respect to their several Capacities, and their several Employments; as he may be a Fool of a Parson who is a very ingenious Artificer; a Fool of a Clock-Maker, and yet a very good Sailor; so a Gentleman may be a good Horse-racer, a good Sportsman, a good Swordsman, and yet be a Fool of a Parliament - Man, therefore so I am to be understood.

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That

That he who is capable to serve his Country as a Representative in Parliament, ought to be a Man of Sense; *that is*, a Man of a general Knowledge, and Receptive of the general Notions of Things, acquainted with the true Interest of his native Country, and the general State of it, as to Trade, Liberties, Laws, and common Circumstances, and especially of that Part of it for which he serves; he ought to know how to deliver his Mind with Freedom and Boldness, and pertinent to the Case; and he ought to be able to distinguish between the different Circumstances of Things, to know when their Liberties are encroached upon, and to defend them, and to know how to value a Prince who is faithful to the Liberty and Interest of his Country, and to distinguish such a one from those who have made it their Business to oppress and invade the Liberties and Properties of the People, and betray them and their Interest.

2^{dly}. Men of Years; tho' 'tis confessed Wisdom makes a young Man old, yet the House of Commons is not a House for Boys; we have seen too many young Men in the House, and rash Councils are generally the Effect of young Heads. Fools and Boys would do less Harm in the House, and grow wiser by being there, were they but allowed to sit, and not give their Votes; but while a Boy may do as much Mischief as a Man, and a Fool as a Man of Sense, 'tis hard the material Points of the Nation's Happiness should be committed either to young or weak Heads.

The Parliament of *England* is the great Council of the Nation, and on their Resolutions depends the Prosperity both of King and People. Now if these Councils are committed to young Heads, the Proceedings will be suitable; as he that sends a Fool with a Message must expect a foolish Answer; so he that sends a Boy to Market expects to make a Child's Bargain.

3^{dly}. Men of Honesty. It was formerly said, Chuse Men of Estates; the Reason was, that they might not be tempted by Places and Pensions from the Court, to sell the Nation's Liberties; and, indeed, the Caution was good. It was supposed that a Man of Estate will be cautious what he gives, because he is to pay the more of it himself.

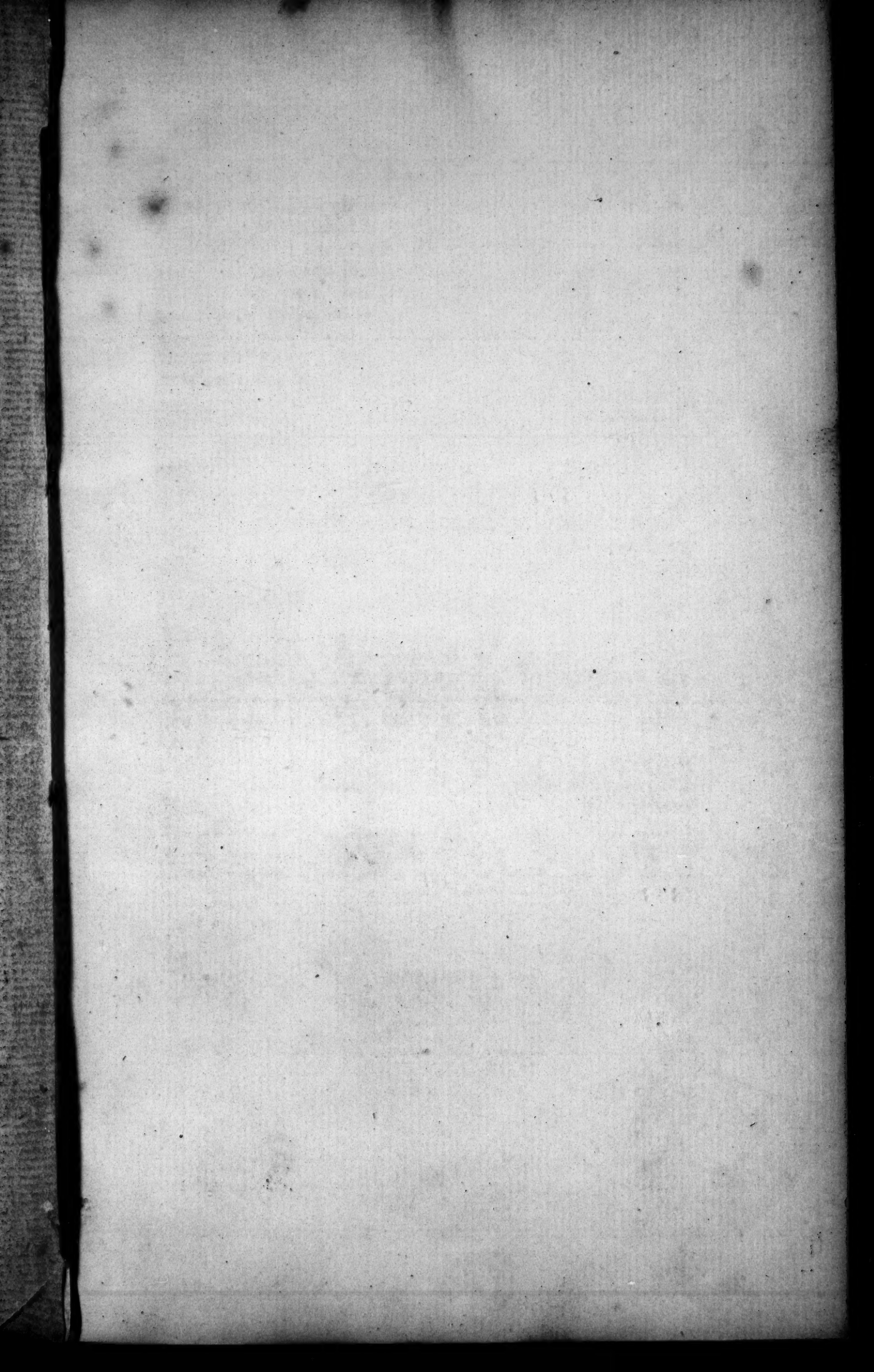
But let a Man have but Sense to know when there is a Necessity to give, and that Sense backed with Honesty, if he has not one Groat in Estate, he will be as cautious of giving

giving away the Nation's Money, as he would be of his own : To desire Men should have Estates, that their Interest should make them shy, and backward to give Money ; supposes at the same Time they should want both Sense and Honesty. *Sense*, that they could not value the Nation's Money, unless they were to pay Part of it themselves ; and *Honesty*, that they would not take as much Care of giving away the Nation's Money as their own. Wherefore do but chuse Men of Honesty, and I do not lay so great a Stress upon a Man's Estate.

The last Character I shall recommend to your Choice is, Let them be Men of strict Morals. — Rakes are no more fit to sit in the House of Commons than Fools and Knaves.



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